

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AGAMERICA AVI, LLC,

Plaintiff,

v.

No. 4:22-cv-0560-P

BRAZOS VALLEY, LLC, ET AL.,

Defendants.

ORDER

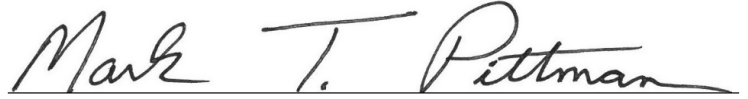
Before the Court is Plaintiff's Motion to Voluntarily Dismiss its Claims against Defendants Debra and Crockett Carter ("Motion") as authorized by Federal Rule of Civil Procedure 41(a)(2). ECF No. 151. Having reviewed the Motion and the applicable law, the Court concludes that the Motion should be, and it is hereby, **GRANTED**.

Under Rule 41(a)(2), a plaintiff may dismiss an action at any time so long as the court determines that the terms of the dismissal are proper. FED. R. CIV. P. 41(a)(2). However, if a defendant has asserted a counterclaim prior to being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. *Id.* Here, the Court dismissed the Carters' counterclaims against Plaintiff. *See* ECF Nos. 133, 134. The Court, therefore, deems Plaintiff's voluntary dismissal to be proper. Accordingly, Plaintiff's claims against Debra and Crockett Carter are **DISMISSED without prejudice**.

Relatedly, federal courts are duty-bound to examine the issue of subject-matter jurisdiction sua sponte if they believe that they lack the requisite jurisdiction to hear a case. *See Giles v. NYLCare Health Plans, Inc.*, 172 F.3d 332, 336 (5th Cir. 1999). Plaintiff claimed that this Court possessed diversity jurisdiction over this case under 28 U.S.C. § 1332(a). *See* ECF No. 1 at 2–3. However, seeing that Plaintiff has voluntarily dismissed its claims against the Carters, complete diversity of

citizenship between the Parties no longer exists in this case. As a result, the Court lacks the requisite jurisdiction to hear this case and concludes that this case is hereby **DISMISSED without prejudice**.

SO ORDERED on this **11th day of July 2023**.

A handwritten signature in black ink that reads "Mark T. Pittman". The signature is written in a cursive, flowing style with a horizontal line extending from the end of the name.

Mark T. Pittman

UNITED STATES DISTRICT JUDGE